



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2015-0337]

RIN 1625-AA08

Special Local Regulation, Tennessee River 647.0 to 648.0;

Knoxville, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule

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SUMMARY: The Coast Guard is establishing a special local regulation for all waters of the Tennessee River, beginning at mile marker 647.0 and ending at mile marker 648.0 on September 4-5, 2015. This special regulation is necessary to provide safety for the racers that will be participating in the "Racing on the Tennessee." Entry into this area will be prohibited unless specifically authorized by the Captain of the Port Ohio Valley or designated representative.

DATES: This rule is effective and will be enforced on September 4, 2015 through September 5, 2015.

ADDRESSES: Documents mentioned in this preamble are part of

docket USCG-2015-0337. To view documents mentioned in the preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer Vera Max, MSD Nashville, Nashville, TN, at 615-736-5421 or at [vera.m.max@uscg.mil](mailto:vera.m.max@uscg.mil). If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

|      |                                 |
|------|---------------------------------|
| COTP | Captain of the Port             |
| DHS  | Department of Homeland Security |
| FR   | Federal Register                |
| NPRM | Notice of Proposed Rulemaking   |

#### A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act

(APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest."

Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because specifics associated with the "Racing on the Tennessee" event were not received in time to publish an NPRM and seek comments before the event. Publishing an NPRM and delaying the effective date of this rule to await public comments would be impracticable and contrary to the public interest since it would inhibit the Coast Guard's ability to provide for the safety of the racers participating in the event and the safety of spectators and waterway users.

Under 5 U.S.C. 553(d) (3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. For the same reasons discussed in the preceding paragraph, delaying the effective date of this rule would be impracticable and contrary to the public interest.

#### B. Basis and Purpose

The legal basis and authority for this rule establishing a special local regulation are found in 33 U.S.C. 1233, which

authorizes the Coast Guard to establish and define special local regulations for regattas under 33 CFR 100.

The "Racing on the Tennessee" is an annual event being held on September 4 and 5, 2015. The Captain of the Port (COTP) Ohio Valley has determined that additional safety measures are necessary to protect race participants, spectators, and waterway users during this event. Therefore, the Coast Guard is establishing a special local regulation for all waters of the Tennessee River beginning at mile marker 647.0 and ending at mile marker 648.0. This regulation will provide safety for the racers that will be participating in the "Racing on the Tennessee" and spectators and waterway users.

#### C. Discussion of Temporary Final Rule

The COTP Ohio Valley is establishing a special local regulated area for all waters of the Tennessee River beginning at mile marker 647.0 and ending at mile marker 648.0. Vessels or persons will not be permitted to enter into, depart from, or move within this area without permission from the COTP Ohio Valley or designated representative. Persons or vessels requiring entry into or passage through the special local regulated area will be required to request permission from the COTP Ohio Valley, or designated representative. Requests for permission are submitted via VHF-FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1-800-253-7465. This rule

will be enforced from 10:00 a.m. until 7:00 p.m. on September 4 and 5, 2015. The COTP Ohio Valley will inform the public through broadcast notices to mariners of the enforcement period for the special local regulated area as well as of any changes in the planned schedule.

#### E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

##### 2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number

of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit mile marker 647.0 to mile marker 648.0 on the Tennessee River, from 10:00 a.m. to 7:00 p.m. on September 4 and 5, 2015. This special local regulated area will not have a significant economic impact on a substantial number of small entities as it will be enforce for a limited period of time over two days. Additionally, although the special local regulated area will apply to the entire width of the river, traffic will be allowed to pass through the area with the permission of the COTP Ohio Valley or designated representative.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditures, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to



minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory

Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the COTP Ohio Valley establishing a special local regulation for all waters of the Tennessee River beginning at mile marker 647.0 and ending at mile marker 648.0 to provide safety for the racers that will be participating in the "Racing on the Tennessee." This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or

information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100— SAFETY OF LIFE ON NAVIGABLE WATERWAYS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C 1233

2. Temporary § 100.801T08-0337 is added to read as follows:  
§ 100.35T08-0337 Special Local Regulation; Tennessee River Mile 647.0 to 648.0, Knoxville, TN.

(a) Regulated area. The following location is a regulated area: All waters of the Tennessee River beginning at mile marker 647.0 and ending at mile marker 648.0.

(b) Enforcement period. This section will be enforced from 10 a.m. to 7 p.m. on September 4 and 5, 2015.

(c) Special local regulations. (1) The general regulations contained in 33 CFR 100.35 as well as the regulations in this section apply to the Regulated Area.

(2) Entry into the Regulated Area is prohibited unless authorized by the Captain of the Port Ohio Valley or a designated representative.

(3) The Captain of the Port Ohio Valley or a designated representative will inform the public through broadcast notice to mariners of the enforcement period for the special local regulation.

(4) Persons or vessels requiring entry into or passage through the Regulated Area must request permission from the Captain of the Port Ohio Valley or a designated representative. U.S. Coast Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1-800-253-7465.

(5) All persons and vessels shall comply with the instructions of the Captain of the Port Ohio Valley and designated U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

DATED: July 13, 2015

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R. V. TIMME  
Captain, U.S. Coast Guard  
Captain of the Port Ohio Valley

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